

CALENDAR ITEM

C48

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WP 6958.1

C. Hudson

GENERAL LEASE - RECREATIONAL USE

APPLICANTS:

Jeffrey B. O'Neill and Darice D. O'Neill, as Trustees of the O'Neill Trust UTA
dated 4/10/1996

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3940 Belleview Avenue, near Tahoe
Pines, Placer County.

AUTHORIZED USE:

Continued use and maintenance of two existing buoys as shown on the attached
Exhibit A.

LEASE TERM:

10 years, beginning April 6, 2009.

CONSIDERATION:

\$680 per year; with the State reserving the right to fix a different rent periodically
during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in the amount of no less than \$1,000,000.

Other:

The proposed lease contains a provision requiring the Applicants to obtain
authorization from the Tahoe Regional Planning Agency (TRPA) for the
mooring buoys within two years after the adoption of a Final
Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone
Ordinance Amendments and approval of the amended ordinances. This is
a continuation of the process the Commission used from approximately
1995 to October 2008 when TRPA adopted an FEIS and Ordinance
Amendments supported by the FEIS. In September 2010, the U.S. District
Court invalidated the FEIS and nullified the Amendments. When
additional information is available, Commission staff will advise the

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Commission on any suggested modifications to the process used by the Commission pending resolution of the TRPA FEIS and amended ordinance issues.

OTHER PERTINENT INFORMATION:

1. Applicants own the uplands adjoining the lease premises.
2. On September 3, 1999, the Commission authorized a Recreational Pier Lease with Howard H. Balsdon, Linda Balsdon West and Caroline B. Carbajal. That lease expired on April 5, 2009. In 2005, the ownership of the upland was transferred to Jeffrey B. O'Neill and Darice D. O'Neill, as Trustees of the O'Neill Trust UTA dated 4/10/1996. The Applicants are now applying for a new General Lease – Recreational Use.
3. The two existing mooring buoys are adjacent to Assessor's Parcel Numbers (APN) 085-222-009 and 085-222-010 which are unimproved parcels owned by the Applicant. Therefore, the Applicants do not qualify for rent-free status pursuant to Public Resources Code section 6503.5 because the upland parcel is not improved with a residence.
4. The Applicants' upland property was one of eleven lakefront properties at Lakeside Park, whereby the Court, in a Stipulated Judgment filed on October 21, 2004, held that owners of the eleven lakefront properties own their properties in fee to the low water mark, elevation 6223-foot Lake Tahoe Datum, subject to the existing Public Trust easement held by the State, and the expanded Public Trust granted to the County of Placer on behalf of the public pursuant to this judgment.
5. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq., but such activity will not affect those significant lands. Based

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upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project as proposed, is consistent with its use classification.

EXHIBIT:

- A. Site and Location Map

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code sections 6370, et seq.

AUTHORIZATION:

Authorize issuance of a 10-year General Lease – Recreational Use to Jeffrey B. O'Neill and Darice D. O'Neill, as Trustees of the O'Neill Trust UTA dated 4/10/1996, beginning April 6, 2009, for the continued use and maintenance of two existing buoys as shown on Exhibit A attached and by this reference made a part hereof; annual rent in the amount of \$680 with the State reserving the right to fix a different rent periodically during the lease term, as provided in the Lease; and liability insurance with coverage of no less than \$1,000,000.